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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/780,138	02/17/2004	Juanito B. Calagui	Calagui - 4	2242

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EXAMINER

CONLEY, FREDRICK C

ART UNIT PAPER NUMBER

3673

DATE MAILED: 01/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/780,138	CALAGUI, JUANITO B.	
	Examiner	Art Unit	
	FREDRICK C CONLEY	3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☒ Claim(s) 11-18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 6,363,557 to Chou in view of U.S. Pat. No. 5,953,779 to Schwartz.

Claim 1, Chou discloses an apparatus comprising a pillow and left and right end pieces

2 wherein the user can adjust the hardness and softness of the pillow pieces

(col. 1 lines 30-34)(col. 2 lines 25-28 & 38-40) therefore a user is clearly capable

of adjusting one piece to be substantially softer than the left end piece and the

right end piece through the selection of different materials. Chou fails to disclose

a recess in the left and right end pieces. Schwadz discloses a cushion having left

and right end pieces (16,17) with a recess and a center piece (14,15) inserted

into the recess. It would have been obvious to one having ordinary skill in the art

at the time of the invention to employ the recess as taught by Schwartz in order

to prevent lateral outward movement of the pillow pieces of Chou.

Claim 2, wherein the recess of the left end piece and the recess of the right end piece

have a width, which is about the same as a dimension of the pillow (fig.

1)(Schwartz).

Claim 3, wherein the recess of the left end piece and the recess of the right end piece have a width and a height, which is about the same as a width, and height of the pillow (Schwartz).

Claim 4, further comprising a sleeve 21, and wherein the pillow, the left end piece, and the right end piece can be inserted into the sleeve while the left portion of the pillow is inserted into the recess of the left end piece and while the right portion of the pillow is inserted into the recess of the right end piece (Chou).

Claim 5, further comprising,

a pillow covering 1, and wherein the sleeve, the pillow, the left end piece, and the right end piece can be inserted into the pillow covering, while the left portion of the pillow is inserted into the recess of the left end piece, while the right portion of the pillow is inserted into the recess of the right end piece, and while the pillow, left end piece, and right end piece are inserted into the sleeve.

Claim 6, Chou discloses a pillow comprising a pillow and left and right end pieces 2 wherein the user can adjust the hardness and softness of the pillow pieces (col. 1 lines 30-34)(col. 2 lines 25-28 & 38-40) therefore a user is clearly capable of adjusting one piece to be substantially softer than the left end piece and the right end piece through the selection of different materials. Chou fails to disclose a method of inserting a right portion of a pillow into a recess of a right end piece and inserting a left portion of a pillow into a recess of a left end piece. Schwartz discloses a cushion having left and right end pieces (16,17) with a recess and a center piece (14,15) inserted into the recess. It would have been obvious to one

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having ordinary skill in the art at the time of the invention to employ the recess as taught by Schwartz in order to prevent lateral outward movement of the pillow pieces of Chou.

Claim 7, wherein the recess of the left end piece and the recess of the right end piece have a width, which is about the same as a dimension of the pillow (fig. 1)(Schwartz).

Claim 8, wherein the recess of the left end piece and the recess of the right end piece have a width and a height, which is about the same as a width, and height of the pillow (Schwartz).

Claim 9, further comprising:

inserting the pillow, the left end piece, and the right end piece into a sleeve 21 while the left portion of the pillow is inserted into the recess of the left end piece and while the right portion of the pillow is inserted into the recess of the right end piece (Chou).

Claim 10, further comprising inserting the sleeve, the pillow, the left end piece, and the right end piece into a pillow covering 1, while the left portion of the pillow is inserted into the recess of the left end piece, while the right portion of the pillow is inserted into the recess of the right end piece, and while the pillow, left end piece, and right end piece are inserted into the sleeve.

Allowable Subject Matter

Claims 11-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed 10/21/04 have been fully considered but they are not persuasive.

Contrary to the Applicant's arguments, Chou clearly discloses an adjustable pillow that is intended to enable the user to select and adjust the hardness or softness of the pillow pieces other than the height (col. 1 lines 30-34)(col. 2 lines 25-28 & 38-40). The user can adjust the hardness and softness of the pillow therefor the user is clearly capable of adjusting one piece to be substantially softer than the left end piece and the right end piece through the selection of different materials.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FREDRICK C CONLEY whose telephone number is 703-308-7468. The examiner can normally be reached on M-TH.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, HEATHER SHACKELFORD can be reached on 703-308-2978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FC



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